

NAVIGATION SAFETY ADVISORY COUNCIL (NAVSAC)

Bylaws

ARTICLE I AUTHORITY

As provided for in Title 33, United States Code, section 2073, as amended by section 621(f) of the Coast Guard Authorization Act of 2010, (P.L. 111-281), the Secretary of Homeland Security has established the Navigation Safety Advisory Council (NAVSAC). The Council shall operate in accordance with the provisions of the *Federal Advisory Committee Act* (FACA) (5 United States Code, Appendix).

ARTICLE II PURPOSE

The NAVSAC provides advice and recommendations to the Secretary through the Commandant of the United States Coast Guard on matters relating to the prevention of maritime collisions, rammings, and groundings including the Inland and International Navigation Rules, navigation regulations and equipment, routing measures, marine information, diving safety, and aids to navigation systems.

ARTICLE III MEMBERSHIP AND MEMBER RESPONSIBILITIES

Section 1. Composition.

The NAVSAC is composed of not more than 21 members who all shall have expertise in Inland and International Navigation Rules, aids to maritime navigation, maritime law, vessel safety, port safety, or commercial diving safety. Each member shall be appointed to represent the viewpoints and interests of one of the following groups or organizations, and at least one member shall be appointed to represent each membership category:

- a. Commercial vessel owners or operators
- b. Professional mariners
- c. Recreational boaters
- d. The recreational boating industry
- e. State agencies responsible for vessel or port safety
- f. The Maritime Law Association

- Section 2. Appointment.
Members of the NAVSAC are appointed by and serve at the pleasure of the Secretary upon the recommendation of the Commandant of the Coast Guard. Appointments are personal to the member and cannot be transferred to another individual. Members may not designate someone to attend in their stead, participate in discussions, or vote. Members serve as representatives and are not Special Government Employees as defined in section 202(a) of Title 18, United States Code.
- Section 3. Terms of Office.
Members shall serve terms of office of up to three years, and approximately one-third of members' terms of office shall expire each year. A member appointed to fill an unexpired term shall be appointed for the remainder of such term. Members may serve up to two consecutive three-year terms. In the event NAVSAC terminates, all appointments to the Council shall terminate.
- Section 4. Certification of Non-Lobbyist Status.
All members of NAVSAC must annually self-certify that they are not registered lobbyists and are required to comply with provisions contained in the *Lobbyist Disclosure Act of 1995* (Pub. Law 110-81, as amended), and must advise the Department of Homeland Security (DHS) if they register as a lobbyist while serving on the Council. Members who register as a lobbyist after their appointment or re-appointment will be replaced on the Council. Members appointed to the NAVSAC prior to June 18, 2010, who are registered lobbyists, are permitted to serve the remainder of their term of office. Candidates for appointment must self-certify that they are not registered lobbyists under the *Lobbying Disclosure Act*. The Designated Federal Officer (DFO) will assure that candidates for appointment are not lobbyists registered under the *Lobbying Disclosure Act*.
- Section 5. Members' Responsibilities.
Because the membership of the NAVSAC is constructed to balance as many aspects and viewpoints of the industry as possible, member attendance and participation at meetings is vital. Members are expected to personally attend and participate at Council meetings. The DFO shall recommend to the Secretary that any member who is unable to fulfill their responsibility be replaced on the Council.
- Members of the NAVSAC may be recommended for removal for reasons such as, but not limited to:
- a. Missing two consecutive meetings, or not participating in the Council's work;
 - b. Registering as a lobbyist after appointment;
 - c. Engaging in activities that are illegal or violate the restrictions on members' activities as outlined below.
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Section 6. Restriction on Members' Activities.

- a. Members may not use their access to the Federal Government as a member of this Council for the purpose of soliciting business or otherwise seeking economic advantage for themselves or their companies. Members may not use any non-public information obtained in the course of their duties as a member for personal gain or for that of their company or employer. Members must hold any non-public information in confidence.
- b. The Council as a whole may advise the agency on legislation or recommend legislative action. In their capacities as members of NAVSAC, individual members may not petition or lobby Congress for or against particular legislation or encourage others to do so.
- c. Members of NAVSAC are advisors to the agency and have no authority to speak for the Council, the United States Coast Guard or for the Department outside the Council structure.
- d. Members may not testify before Congress in their capacity as a member of NAVSAC. If requested to testify before Congress, members of the NAVSAC:
 1. Cannot represent or speak for the Council, DHS, any agency, or the Administration in their testimony;
 2. Cannot provide information or comment on Council recommendations that are not yet publicly available;
 3. May state they are a member of the Council; and,
 4. May speak to their personal observations as to their service on the Council.
- e. If speaking outside the Council structure at other forums or meetings, the restrictions in section d. also apply.

ARTICLE IV Officials

Section 1. Chairperson and Vice-Chairperson.

- a. The Commandant or the DFO appoints one member of the Council as Chair and one member of the Council as Vice-Chair.
- b. The Chair will assist the DFO in establishing priorities and developing agendas for Council and subcommittee meetings, attend and chair all meetings and certify the accuracy of meeting minutes within 90 days.
- c. The Vice-Chair will act as Chair in the absence or incapacity of the Chair or in the event of a vacancy in the office of the Chair.
- d. The Chair and Vice-Chair may be allowed to serve three consecutive three-year terms.

Section 2. Designated Federal Officer:

The Designated Federal Officer (DFO) serves as the Department's agent for all matters related to the NAVSAC and is appointed by the Director of Marine Transportation Systems. In accordance with the provisions of the FACA, the DFO must:

- a. Approve or call meetings of the Council and its subcommittees;
- b. Approve agendas for Council and subcommittee meetings;
- c. Attend all meetings;

- d. Adjourn meetings when such adjournment is in the public interest; and,
- e. Chair meetings of the Council when directed to do so by the Director of Marine Transportation Systems.

In addition, the DFO is responsible for assuring administrative support functions are performed, including the following:

- a. Notifying members of the time and place of each meeting;
- b. Tracking all recommendations of the Council;
- c. Maintaining a record of members' attendance;
- d. Preparing the minutes of all meetings of the Council's deliberations, including subcommittee and working group activities;
- e. Attending to official correspondence;
- f. Maintaining official records and filing all papers and submissions prepared for or by the Council, including those items generated by subcommittees and working groups;
- g. Reviewing and updating information on Council activities in the Shared Management System (aka, FACA database) on a monthly basis;
- h. Acting as the Council's agent to collect, validate and pay all vouchers for pre-approved expenditures; and
- i. Preparing and handling all reports, including the annual report as required by FACA.

Section 3. Alternate Designated Federal Officer:
An Alternate Designated Federal Officer (ADFO) serves as an assistant to the DFO and performs the functions of the DFO as required by FACA in the DFO's absence. The ADFO is also appointed by the Director of Marine Transportation Systems in accordance with the provisions of the FACA.

ARTICLE V MEETING PROCEDURES

Section 1. Meeting Schedule and Call of Meetings.
The DFO shall call for a meeting of the NAVSAC in consultation with the NAVSAC Chair. Meeting location shall be determined based on membership availability and public access. NAVSAC is expected to meet approximately twice per year, usually every six months. Additional meetings or subcommittee meetings may be held with the approval of the DFO.

The DFO shall attend all Council and subcommittee meetings.

Section 2. Agenda.
The DFO, in consultation with the NAVSAC Chair, shall develop and approve an agenda for all Council and subcommittee meetings. The DFO shall be responsible for distributing the agenda to all members prior to the meeting and publishing the agenda in the *Federal Register* a minimum of 15 calendar days in advance of the meeting date.

Section 3. Quorum.
A quorum of the NAVSAC is fifty percent plus one of the appointed Council members. A quorum is required to vote on issues being addressed during a

Council meeting. The DFO will determine if a quorum exists at the beginning of each meeting of the Council. If a quorum does not exist, the meeting may continue, but no action may be taken by the members present.

Section 4. Voting Procedures.

Recommendations or issues that require a vote shall be called for by the NAVSAC Chair. A simple majority shall be required to pass a motion. In the event of a tie, the Chair shall pass the deciding vote. Only Committee members present at a meeting may vote on an item under consideration. No proxy votes will be allowed. All votes must be recorded in the minutes of the meeting. Approved resolutions or recommendations shall be recorded in the meeting minutes and forwarded by the DFO for agency action.

Section 5. Minutes.

The DFO will prepare the minutes of each meeting and distribute copies to each Council member. Minutes of open meetings are available to the public upon request. Minutes of closed meetings will also be available to the public upon request subject to the withholding of matters about which public disclosure would be harmful to the interests of the Government, industry, or others, and which are exempt from disclosure under the *Freedom of Information Act*.

The minutes will include a record of:

- a. The time, date, and place of the meeting;
- b. A list of all attendees including members, staff and the public;
- c. An accurate description of each matter discussed and the resolution, if any, made by the Council;
- d. Copies of reports or other documents received, issued, or approved by the Council; and
- e. An accurate description of public participation, including oral and written statements provided.

The DFO assures that the Chair certifies the minutes within 90 calendar days of the meeting to which they relate.

Section 6. Open Meetings.

Unless otherwise determined in advance, all meetings of the NAVSAC shall be open and announced to the public in a notice published in the *Federal Register* at least 15 calendar days before the meeting. Members of the public may attend any meeting or portion of a meeting that is not closed to the public and may offer oral comment at such meeting. Meetings will include a period for oral comments unless it is clearly inappropriate to do so. Members of the public may submit written statements to the Council. *Federal Register* notices announcing meetings will inform the public of the procedure for submitting a written statement to the Council. To submit a written statement, members of the public should provide the written statement to the DFO in advance of a Council meeting or they may present the material to the Council during the "public comment" portion of the meeting also making the material available to any public attendees. All materials provided to the Council shall be available to the public when they are provided to the members. Such materials, including any submissions by members of the

public, are part of the meeting record and will be posted to the Council's public website.

Section 7

Closed Meetings.

All or parts of meetings of NAVSAC may be closed in limited circumstances and in accordance with applicable law. No meeting may be partially or fully closed unless the component head issues a written determination that there is justification for closure under the provisions of subsection (c) of 5 United States Code, 552b, the *Government in the Sunshine Act* (Sunshine Act). Where the DFO has determined in advance that discussions during a Council meeting will involve matters about which public disclosure would be harmful to the interests of the government, industry, or others; an advance notice of a closed meeting, citing the applicable exemptions of the *Government in the Sunshine Act*, will be published in the *Federal Register*. The notice may announce the closing of all or just part of a meeting. If, during the course of an open meeting, matters inappropriate for public disclosure arise during discussions, the DFO or Chairman will order such discussion to cease and will schedule it for a future meeting of the Council that will be approved for closure. No meeting or portion of a meeting may be closed without prior approval and notice published in the *Federal Register* at least 15 calendar days in advance. Closed meetings can only be attended by the DFO, Council members, and necessary agency staff members. Presenters must leave immediately after giving their presentations and answering any questions.

ARTICLE VI EXPENSES AND REIMBURSEMENTS

All expenses and travel for NAVSAC business must be approved in advance by the DFO. Members will be reimbursed for official travel and per diem related to Council business including meeting, subcommittee work, and as a liaison to other committees.

The United States Coast Guard Marine Transportation Systems Management Directorate is responsible for providing financial support to NAVSAC.

ARTICLE VII ADMINISTRATION

The United States Coast Guard Marine Transportation Systems Management Directorate is responsible for providing clerical and administrative support to NAVSAC.

ARTICLE VIII SUBCOMMITTEES

The DFO may establish subcommittees or working groups for any reason consistent with the purpose of NAVSAC. Such subcommittees may not work independently of the chartered Council, however they may meet outside the regularly scheduled Council meeting and must present their work to NAVSAC for full deliberation and discussion. Subcommittees have no authority to make decisions on behalf of NAVSAC and may not report directly to the Federal government or any other entity. Each subcommittee Chairperson shall be a member of the Council. The NAVSAC Chair may recommend to the DFO members from the Council or from the public to serve on subcommittees.

Approved subcommittees may exist until such time they are deemed no longer necessary by the DFO, or they have completed their tasking and have presented their work to the full Council for deliberation and discussion.

ARTICLE IX RECORDKEEPING

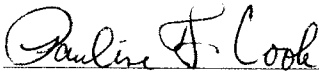
The records of the NAVSAC, formally and informally established subcommittees or other subgroups of the Council, are maintained by the DFO in accordance with General Records Schedule 26 Item 2, or other approved agency records disposition schedule. These records are available for public inspection and copying, in accordance with the *Freedom of Information Act* (Title 5, United States Code, section 552).

ARTICLE X RECOMMENDATIONS AND REPORTING

All resolutions, recommendations and reports, once approved by the Council, will be forwarded by the DFO to the appropriate office of the United States Coast Guard for review and action. The DFO shall maintain a record of each resolution, recommendation and report presented to the United States Coast Guard. The DFO shall present the results of actions taken to the NAVSAC at a subsequent meeting of the Council.

ARTICLE XI BYLAWS APPROVAL AND AMENDMENTS

The DFO may amend these bylaws at any time, and the amendments shall become effective immediately upon approval.



Pauline F. Cook, Captain, U.S. Coast Guard
Designated Federal Officer

Date approved:

7/19/12